

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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YOSEF ISHAKI,

Plaintiff(s),

v.

EQUIFAX INFORMATION SERVICES, LLC,
et al.,

Defendant(s).

Case No. 2:20-CV-1705 JCM (DJA)

ORDER

Presently before the court are defendants Bank of America, N.A. (“BANA”), JPMorgan Chase Bank, N.A. (“Chase”), and BMW Financial Services, N.A.’s (“BMW”), motions to dismiss. (ECF Nos. 8, 22, 27). Also before this court is defendant BMW’s motions to stay case and compel arbitration. (ECF Nos. 26, 28). Plaintiff Yosef Ishaki has not responded to any of the above, and the deadline to do so has passed. Defendants have apprised this court of plaintiff’s non-response. (ECF No. 25, 31, 34).

Pursuant to Local Rule 7-2, an opposing party must file points and authorities in response to a motion; failure to file a timely response constitutes the party’s consent to the granting of the motion and is proper grounds for dismissal. *See* LR IB 7-2(d); *United States v. Warren*, 601 F.2d 471, 474 (9th Cir. 1979). However, prior to dismissal, the district court is required to weigh several factors: “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases of their merits; and (5) the availability of less drastic sanctions.” *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (citing *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986)).

In light of plaintiff’s lack of response and weighing the factors identified in *Ghazali*, the court rules on defendants’ motions as follows:

Pursuant to BANA's motion to dismiss, (ECF No. 8), plaintiff's seventh and eighth causes of actions are dismissed with prejudice. Pursuant to Chase's motion to dismiss, (ECF No. 22), all of plaintiff's claims against Chase are dismissed with prejudice. Finally, this court grants BMW's motions for stay and arbitration, (ECF Nos. 26, 28), but denies its motion to dismiss, (ECF No. 27). Per *Ghazali*, the requested stay presents a "less drastic sanction[]" to dismissal. 46 F.3d at 53.

The records reflect proper notice to plaintiff of these motions, yet plaintiff has not meaningfully litigated this matter since first filing his complaint on September 15, 2020. Ample time has passed since plaintiff's deadlines to respond.

Accordingly,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendant BANA's motion to dismiss (ECF No. 8) be, and the same hereby is, GRANTED.

IT IS FURTHER ORDERED that defendant Chase's motion to dismiss (ECF No. 22) be, and the same hereby is, GRANTED.

IT IS FURTHER ORDERED that defendant BMW's motion to dismiss (ECF No. 27) be, and the same hereby is, DENIED.

IT IS FURTHER ORDERED that defendant BMW's motion to stay case (ECF No. 26) be, and the same hereby is, GRANTED.

IT IS FURTHER ORDERED that defendant BMW's motion to compel arbitration (ECF No. 28) be, and the same hereby is, GRANTED.

DATED December 11, 2020.


UNITED STATES DISTRICT JUDGE